

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DISABILITY RIGHTS RHODE ISLAND,
Plaintiff,

V.

RICHARD CHAREST, in his official
Capacity as Director of the RHODE ISLAND
DEPARTMENT OF BEHAVIORAL
HEALTHCARE, DEVELOPMENTAL
DISABILITIES & HOSPITALS
Defendant.

C.A. No. 1:22-cv-00304-MSM-PAS

DISMISSAL STIPULATION

By agreement of the parties, this matter may be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

The parties acknowledge that:

1. Plaintiff Disability Rights Rhode Island (“DRRI”) is currently the designated PAIMI (Protection and Advocacy for Individuals with Mental Illness Act) entity in Rhode Island.
2. In its capacity as a PAIMI entity, DRRI having made its determination of probable cause, requested records from BHDDH relating to a specific individual (the “patient”), including two (2) documents that were generated as a result of Eleanor Slater Hospital’s peer-review process.
3. After the filing of this lawsuit, portions of the two (2) documents generated by an Eleanor Slater Hospital peer-review committee, that mentioned the patient, were produced to DRRI. The parties recognize that these two (2) documents are covered by

the State peer-review privilege; however, the parties agree that precedent from some Federal jurisdictions, not including the First Circuit Court of Appeals, support that:

- a. peer review reports fall within 42 U.S.C. § 10805(a)(4) granting the PAIMI entity access to client records, including those that are generated during the peer-review process;
- b. state law does not bar disclosure of peer review reports that fall within 42 U.S.C. § 10805(a)(4) to a designated PAIMI entity for investigative purposes prior to any litigation or discovery process; and
- c. 42 U.S.C. § 10805(a)(4) preempted state law concerning peer-review privilege prior to any litigation or discovery process.

The parties agree that they shall bear their own attorneys' fees and costs.

This 14th day of October, 2022.

Respectfully submitted,

/s/ Brian Adae

Brian Adae (RI State Bar No. 2536)
DISABILITY RIGHTS RHODE ISLAND
33 Broad Street, Suite 601
Providence, RI 02903
Phone: (401) 831-3150
Fax: (401) 274-5568
Email: badae@drri.org

/s/ Kristine L. Sullivan

Kristine L. Sullivan (NC Bar No. 35595)
Pro Hac Vice
DISABILITY RIGHTS RHODE ISLAND
33 Broad Street, Suite 601
Providence, RI 02903
Phone: (401) 831-3150
Fax: (401) 274-5568
Email: ksullivan@drri.org

/s/ Etie-Lee Z. Schaub

Etie-Lee Z. Schaub (#8783)
Special Assistant Attorney General
R.I. Office of the Attorney General
150 South Main Street
Providence, RI 02903
Phone: (401) 274-4400 Ext. 2021
Fax: (401) 222-3016
eschaub@riag.ri.gov

/s/ Brenda D. Baum

Brenda D. Baum (#5184)
Assistant Attorney General
R.I. Office of the Attorney General
150 South Main Street
Providence, RI 02903
Phone: (401) 274-4400 Ext. 2294
Fax: (401) 222-3016
bbaum@riag.ri.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2022, the foregoing DISMISSAL STIPULATION was filed with the United States District Court for the District of Rhode Island using the CM/ECF system, and that a copy is available for viewing and downloading.

/s/ Kristine L. Sullivan